

REMARKS

This is in response to the Office Action of November 30, 2004 in which claims 28-30 and 32-55 were rejected. With this response, a statement of common ownership is submitted along with references which were not received by the Examiner with the Information Disclosure Statement submitted October 12, 2004.

In section 2 of the Office Action, the Examiner indicated that certain documents were not received in connection with the Information Disclosure Statement. Submitted herewith, copies of the foreign references and non-patent literature. Additionally, copies of the stamped return postcards indicating that these materials were received by the U.S. Patent and Trademark Office are submitted as well. Consideration and entry of these references are respectfully requested.

In the Office Action, all pending claims were rejected based upon a number of references including U.S. Publication 2003/0001579 to Bertness.

Statement of Common Ownership

The present application and U.S. Application No. 10/098,741 (U.S. Publication 2003/0001579 to Bertness) were, at the time the invention of the present application was made, owned by the present Assignee, Midtronics Inc. of Willowbrook, Illinois.

In view of the above statement and in accordance with MPEP § 706.02(1)(1-2), it is believed that the Bertness '579 publication is not prior art with respect to the present application. Therefore, it is believed that the rejection against all pending claims may be withdrawn.

In view of the above remarks, it is believed that the present invention is in condition for allowance. Consideration and favorable action are respectfully requested.

The Director is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 23-1123.

Respectfully submitted,

WESTMAN, CHAMPLIN & KELLY, P.A.

By: 

Judson K. Champlin, Reg. No. 34,797
Suite 1600 - International Centre
900 Second Avenue South
Minneapolis, Minnesota 55402-3319
Phone: (612) 334-3222 Fax: (612) 334-3312

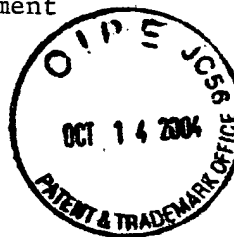
JKC:bjt



Receipt is hereby acknowledged by the Assistant Commissioner of Patents and Trademarks of the following item in the matter of:

Applicant : Kevin I. Bertness
Serial No./Patent No.: 10/675,933
Filed/Issued : September 30, 2003
Title/Mark : QUERY BASED ELECTRONIC BATTERY TESTER

1. Amendment
2. Information Disclosure Statement
3. References
4. Charge Authorization Form



Atty/Sec JKC:bjt Date: 10/12/04 File No. C382.12-0141

BEST AVAILABLE COPY